IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Cr. No. 05-1849 JH
	)	
DANA JARVIS, et al.,	)	
	)	
Defendants.	)	

UNITED STATES' MOTION FOR LEAVE TO FILE
SURREPLY RE: "DEFENDANTS' JOINT MOTION TO DISMISS
COUNT 3 OR IN THE ALTERNATIVE FOR A BILL OF PARTICULARS"

COMES NOW the United States of America, by and through David C. Iglesias,

United States Attorney for the District of New Mexico, and James R.W. Braun, Assistant

United States Attorney for said District, and hereby moves the court for leave to file a

surreply re: "Defendants' Joint Motion to Dismiss Count 3 or in the Alternative for a Bill

of Particulars" (Doc. 710), and in support thereof states:

1. On October 20, 2006, the defendants jointly filed their "Motion to Dismiss

Count 3 or in the Alternative for a Bill of Particulars." The United States filed a timely

response to the motion and thereafter the defendants filed a timely reply to the United

States' response.

2. In their reply, the defendants cite to the United States Supreme Court's recent

decision in *United States v. Resendiz-Ponce*, 127 S.Ct. 782 (January 9, 2007). As this

case was decided after the United States filed its response, the United States should be

allowed to file a surreply to address the new arguments made in the defendants' reply.

3. The United States has drafted a surreply, which is attached hereto for the

court's review.

4. Jody Neal-Post, counsel on the defendants' joint motion, was contacted and

does not oppose this motion.

WHEREFORE, the United States requests leave of the court to file the surreply

attached hereto.

Respectfully submitted,

DAVID C. IGLESIAS
United States Attorney

/s/ James R.W. Braun

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 12th day of February, 2007, I filed the foregoing
pleading electronically through the CM/ECF system, which caused counsel of record for
the defendants to be served by electronic means.

/s/ James R.W. Braun

JAMES R.W. BRAUN
Assistant U.S. Attorney